

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

MAY 18 2006

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

GAGIK KYURKCHYAN; AREVIK
TRUNI; TATEVIK KYURKCHYAN,

Petitioners,

V.

ALBERTO R. GONZALES, Attorney
General,

Respondent.

No. 04-72966

Agency Nos. A96-050-117
A96-050-118
A96-050-119

MEMORANDUM^{*}

On Petition for Review of an Order of the
Board of Immigration Appeals

Argued and Submitted December 9, 2005
Pasadena, California

Before: LEAVY, COWEN,^{**} and RAWLINSON, Circuit Judges.

1. Gagik Kyurckchyan (Petitioner), and derivatively, Tatevik Kyurkchyan and Arevik Truni raised his challenge to the Immigration Judge's (IJ) adverse credibility determination and denial of his Convention Against Torture (CAT)

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

^{**} The Honorable Robert E. Cowen, Senior United States Circuit Judge for the Third Circuit, sitting by designation.

claim in his brief to the BIA, thereby exhausting these issues. *See Zhang v. Ashcroft*, 388 F.3d 713, 721 (9th Cir. 2004).

2. The IJ's finding that Petitioner was not credible with regard to his political activities is supported by substantial evidence and goes to the heart of his asylum claim. *See Singh v. Ashcroft*, 367 F.3d 1139, 1143 (9th Cir. 2004) (denying relief where petitioner was unable to provide details of his political activities); *see also Valderrama v. INS*, 260 F.3d 1083, 1085 (9th Cir. 2001) (recognizing that discrepancy regarding political activities went to the heart of petitioner's claims where those activities formed the basis of the persecution claim.). As long as one of the identified grounds underlying the adverse credibility finding is supported by substantial evidence and goes to the heart of the asylum claim, we must accept the adverse credibility determination. *See Li v. Ashcroft*, 378 F.3d 959, 964 (9th Cir. 2004).

3. The finding that Petitioner does not qualify for CAT relief is supported by substantial evidence because Petitioner did not meet his burden of showing that the feared future persecution would constitute torture. *See Hasan v. Ashcroft*, 380 F.3d 1114, 1122-23 (9th Cir. 2004) (explaining petitioner's burden); *see also Al-*

Saher v. INS, 268 F.3d 1143, 1147 (9th Cir. 2001) (defining torture as “an extreme form of cruel and inhuman treatment”) (citation omitted).

PETITION DENIED.